

APPENDIX

The following are pertinent provisions of the Idaho laws, being Idaho Code Annotated, 1932, Official Edition:

§5-201. "Civil actions can only be commenced within the periods prescribed in this chapter after the cause of action shall have accrued, except when, in special cases, a different limitation is prescribed by statute."

§5-214. "The periods prescribed for the commencement of actions other than for the recovery of real property are as follows."

§5-216. "An action upon any contract, obligation or liability founded upon an instrument in writing."

§5-217. "Within four years: An action upon a contract, obligation or liability not founded upon an instrument of writing."

§5-228. "An action is commenced within the meaning of the chapter when the complaint is filed."

§5-231. " * * * If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced against his representatives, after the expiration of that time, and within one year after the issuing of letters testamentary or of administration."

§5-234. "When the commencement of an action is stayed by injunction or statutory prohibition the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action."

§15-601. "Every executor or administrator must, immediately after his appointment, cause to be published in some newspaper of the county, if there be one, if not, then in such newspaper as may be designated by the court, a notice to the creditors of the decedent, requiring all persons having claims against him to exhibit them with the necessary vouchers, to the executor or administrator, at the place of his residence or business to be

specified in the notice. Such notice must be published as often as the judge or court shall direct, but not less than once a week for four weeks. The court or judge may also direct additional notice by publication or posting. In case such executor or administrator resigns, or is removed, before the time expressed in the notice, his successor must give notice only for the unexpired time allowed for such presentation: provided, that when no newspaper is published in the county, the notice shall be posted in not less than three public places in the county, one of which shall be at the courthouse door, for such time, not less than four weeks, as the court may order."

§15-602. "The time expressed in the notice must be six months after its first publication."

§15-604. "All claims arising upon contracts, whether the same be due, not due or contingent, must be presented within the time limited in the notice, and any claim not so presented is barred forever: provided, that when it is made to appear by the affidavit of the claimant, to the satisfaction of the court or a judge there, that the claimant had no notice as provided in this chapter by reason of being out of the state, it may be presented at any time before a decree of distribution is entered."

§15-605. "Every claim which is due, when presented to the executor or administrator, must be supported by the affidavit of the claimant, or some one in his behalf, that the amount is justly due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant. * * * *"

§15-607. "When a claim, accompanied by the affidavit required in this chapter, is presented to the executor or administrator he must, within sixty days after its receipt, indorse thereon, his allowance or rejection, with the day and date thereof. If he allows the claim, he must within the same time present it to the probate

judge for his approval, who must, in the same manner, indorse upon it his allowance or rejection. If the executor, administrator, or judge reject the claim, or disallow any part thereof, he shall within ten days thereafter notify the claimant, his agent or attorney, by mail or personal notice of such rejection or disallowance. If the claim be presented to the executor or administrator before the expiration of the time limited for the presentation of claims, the same is presented in time, though acted upon by the executor or administrator, and by the judge, after the expiration of such time."

§15-608. "Every claim allowed by the executor or administrator and approved by the probate judge, or a copy thereof, as hereinafter provided, must, within thirty days thereafter, be filed in the probate court, and be ranked among the acknowledged debts of the estate, to be paid in due course of administration. If the claim is founded on a bond, bill, note or any other instrument, a copy of such instrument must accompany the claim, and the original instrument must be exhibited if demanded, unless it is lost or destroyed, in which case the claimant must accompany his claim by his affidavit, containing a copy or particular description of such instrument, and stating its loss or destruction. * * *"

§15-609. "When a claim is rejected, either by the executor or administrator, or the probate judge, the holder must bring suit in the proper court against the executor or administrator, within three months after notice of its rejection, if it be then due, or within two months after it becomes due, otherwise the claim is forever barred."

§15-611. "No holder of any claim against an estate shall maintain any action thereon unless the claim is first presented to the executor or administrator, except in the following case: An action may be brought by any holder of a mortgage or lien to enforce the same against the property of the estate subject thereto,

whether homestead, community or separate property of the deceased, where all recourse against any other property of the estate is expressly waived in the complaint."

§15-738. "When any sale is made by an executor or administrator pursuant to the provisions of this chapter, of lands subject to any mortgage or other lien, which is a valid claim against the estate of the decedent, and has been presented and allowed, the purchase money must be applied, after paying the necessary expenses of the sale, first to the payment and satisfaction of the mortgage or lien, and the residue, if any, in due course of administration. The application of the purchase money to the satisfaction of the mortgage or lien must be made without delay, and the land is subject to such mortgage or lien until the purchase money has been actually so applied. No claim against any estate which has been presented and allowed is effected by the statute of limitations, pending the proceedings for the settlement of the estate. * * * * *